

### **Remarks/Arguments**

Reconsideration of this application is requested.

#### **Claim Status**

Claims 1-23 were presented. Claims 19-22, which are withdrawn from consideration as drawn to a non-elected invention, are canceled without prejudice. Claims 1, 6, 13, 18 and 23 are amended. Thus, claims 1-18 and 23 are now pending.

#### **Drawings**

The Action objects to the drawings under 37 CFR 1.84(p)(5) and asserts that reference numeral 15 is not described in the specification. In response, paragraph 0028 is amended to describe the LAN with reference numeral 15 as shown in Fig. 1.

#### **Claim Rejections – 35 USC 102**

Claims 1, 6, 11-13, 18 and 23 are rejected under 35 USC 102(b) as anticipated by Yoshitani (US 2002/0089702). In response, applicant traverses the rejections and amends claims 1, 6, 13, 18 and 23 to clearly distinguish over Yoshitani.

As described in applicant's specification, the present invention provides a color image communication device and method for easily transmitting and receiving at low cost, color image data without converting or compressing the color image data. As recited in claims 1, 6, 13, 18 and 23, a facsimile of a color image data in a first color space is carried out by setting size information and a facsimile of color image data in a second color space is carried out without setting size information in the facsimile communication protocol. Importantly, FIG. 2 and paragraph 0032 teach that the facsimile transmission is provided under an ITU-T Recommendation facsimile protocol initiated by dialing a facsimile number, then receiving a Digital Identification Signal (DIS), etc. Therefore, the facsimile transmission does not include facsimile transmission by electronic mail.

Yoshitani, by contrast, is directed to transmission of image data by facsimile and e-mail (FIG. 4A, 4B and 5). Color facsimile communication is provided for CIELAB color space data (paragraphs 0062-0063 and 0102) and electronic mail communication is provided for YCbCr color space data (paragraph 0109).

Importantly, white pixels are added to an image changed into A4 size for facsimile transmission, unlike electronic mail transmission that can be directly transmitted without adding white pixels (paragraph 0110). Therefore, Yoshitani merely teaches electronic mail transmission of image data without setting size information in the electronic mail communication protocol when the color image data is in the YCbCr color space. Thus, Yoshitani teaches against a non-electronic mail facsimile transmission of image data without setting size information in the non-electronic mail facsimile communication protocol of the sYCC-JPEG color space image data.

Moreover, Yoshitani makes clear the distinction between facsimile transmission of image data and electronic mail transmission of image data such that they cannot be broadly interpreted as the same communication protocol. For example, the selection of an e-mail address is prohibited when transmitting image data by telephone/facsimile, and the selection of a phone number is prohibited when transmitting image data by e-mail. Therefore, facsimile transmission is distinct from e-mail transmission such that e-mail is neither a facsimile transmission method nor a facsimile communication protocol. For example, applicant respectfully submits that SMTP is not a facsimile communication protocol such as G3 even if they both transmit image data.

To emphasize this feature, claims 1, 6, 13, 18 and 23 are amended to recite a non-electronic mail facsimile transmission and communication protocol. For example, claim 1 is amended as follows:

*...means for controlling a non-electronic mail facsimile transmission of the image data of the sYCC-JPEG color space without setting size information in a non-electronic mail facsimile communication protocol when the image data to be transmitted by facsimile is the image data of the sYCC-JPEG color space...*

Since Yoshitani does not disclose each and every feature of claims 1, 6, 13, 18 and 23, it cannot anticipate claims 1, 6, 13, 18 and 23 or claims 11 and 12

dependent thereon. The rejections of these claims under 35 USC 102 should therefore be withdrawn.

### **Claim Rejections – 35 USC 103**

Claims 2, 7 and 14 are rejected under 35 USC 103(a) as obvious over Yoshitani in view of Yoshida (US 2002/0039201). Claims 3, 4, 8, 9, 15 and 16 are rejected as obvious over Yoshitani in view of Ejima (US 6,259,469). Claims 5, 10 and 17 are rejected as obvious over Yoshitani in view of Ejima and Feldis (US 7,110,026). In response, applicant traverses the rejections.

First, claims 2-5, 7-10 and 14-17 depend from claims 1, 6, 13, 18 and 23 and are allowable for at least the same reasons as discussed above for claims 1, 6, 13, 18 and 23.

Moreover, dependent claims 2, 7 and 14 recite a Digital Command Signal (DCS) of the facsimile transmission of the sYCC-JPEG color space. In this regard, Yoshida is cited for teaching a DCS signal transmitted over a telephone network by a facsimile protocol (Paragraph 0039). However, applicant respectfully submits that combining Yoshitani and Yoshida so as to “provide size information” makes no sense since a DCS signal of a facsimile communication protocol is incompatible with the YCbCr color space e-mail communication protocol disclosed by Yoshitani, and would thus change the principle of operation of Yoshitani (see MPEP 2143.01). As discussed above, Yoshitani provides e-mail transmission of image data over an IP network for sYCC-JPEG color space data and not for non-electronic mail facsimile transmission. Therefore, the suggested combination with the teachings of Yoshida would require a substantial reconstruction and redesign of the elements shown in Yoshitani, as well as a change in the basic principle under which Yoshitani was designed to operate. Thus, the features recited in claim 2 further distinguish the present invention over the cited references.

Furthermore, dependent claims 3, 8 and 15 recite facsimile transmission of a file of the image data under a format in which function information is attached in the file. In this regard, Ejima is cited for teaching an electronic camera 1

transmitting a format of information via network 103 to other information processing devices such as telephone 106 and facsimile 107. Importantly, facsimile transmission by electronic camera 1 is not disclosed or suggested. At best, Ejima merely teaches a camera 1 connected to network 103 that can transmit information originating from a facsimile machine. Claims 3, 8 and 15, by contrast, require the function information attached in the file to be under a facsimile transmission and not merely camera transmission.


Feldis is cited for its relevance to image tags in camera image data. However, Feldis does not remedy the deficiencies of Yoshitani with respect to claims 1, 6, 13, 18 and 23 and is not relied on in this manner by the Action. For these reasons, the rejections of claims 2-5, 7-10 and 14-17 under 35 USC 103(a) should be withdrawn.

### Conclusion

This application is now believed to be in condition for allowance. The Examiner is invited to telephone the undersigned to resolve any issues that remain after entry of this amendment. Any fees due with this response may be charged to our Deposit Account No. 50-1314.

Respectfully submitted,  
HOGAN & HARTSON L.L.P.

Date: August 21, 2008

By:   
Troy M. Schmelzer  
Registration No. 36,667  
Attorney for Applicant(s)

1999 Avenue of the Stars, Suite 1400  
Los Angeles, California 90067  
Phone: 310-785-4600  
Fax: 310-785-4601